

Introduced by Senator Lowenthal

February 10, 2005

An act to amend Section 103900 of, and to add Section 103902 to, the Health and Safety Code, and to add Section 12803.5 to the Vehicle Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 212, as amended, Lowenthal. Lapses of consciousness: reports to *the* Department of Motor Vehicles.

(1) Under existing law, a physician and surgeon is required to report immediately to the local health officer in writing, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a disorder characterized by lapses of consciousness. Existing law requires the ~~department~~ *State Department of Health Services*, in cooperation with the Department of Motor Vehicles, to define disorders characterized by lapses of consciousness, and to include within the defined disorders Alzheimer's disease and related disorders that are severe enough to be likely to impair a person's ability to operate a motor vehicle. Existing law further requires the local health officer to provide this information to the Department of Motor Vehicles, for the information of ~~the~~ *that* department in enforcing the Vehicle Code.

This bill instead would authorize a physician and surgeon to disclose, voluntarily and in good faith, information relating to a diagnosis of a lapse of consciousness disorder or other medical condition that may affect a patient's ability to drive safely to the Department of Motor Vehicles, and would make conforming changes.

The bill would eliminate the responsibilities of the local health officer in this regard.

This bill would separately require a physician and surgeon to make a written report to the Department of Motor Vehicles identifying every patient the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder, and every patient *at least 15 years of age, or 14 years of age if the patient has conditional driving privileges*, who suffers from an impairment or disorder that significantly compromises the patient's ability to safely operate a motor vehicle ~~and that cannot, with an exception for conditions that~~ can be controlled or compensated for within a clinically reasonable period of time. It would exempt the physician and surgeon from criminal and civil liability for making a report pursuant to the bill.

(2) Under existing law, the Department of Motor Vehicles is responsible for the issuance and renewal of drivers' licenses.

This bill would require every driver to report to the department any medical condition that is likely to cause loss of consciousness or any loss of ability to safely operate a motor vehicle, within 10 days of the driver becoming aware of this condition. The bill would require the department, in consultation with professional medical organizations, to determine the temporary conditions that are not required to be reported. The bill would authorize the department, upon receipt of a report from a driver or a physician and surgeon pursuant to the bill, to initiate an administrative hearing to review the driving privileges of the person in question. The bill would authorize the department to take adverse action against the person's driving privileges based on the evidence presented at the hearing, or to require successful passage of a reexamination test as a condition of continued licensure.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 103900 of the Health and Safety Code
2 is amended to read:

3 103900. (a) Every physician and surgeon may in good faith
4 report to the Department of Motor Vehicles, in writing, the name,
5 date of birth, and address of every patient ~~at least 14 years of age~~
6 ~~or older whom the physician and surgeon has diagnosed as~~
7 ~~having a case of a disorder characterized by lapses of~~

1 ~~consciousness, or~~ 15 years of age, or 14 years of age if the
2 patient has a conditional license, whom the physician and
3 surgeon has personally diagnosed as having suffered a lapse of
4 consciousness or who has a disorder or another medical
5 condition that may affect the patient's ability to drive safely. A
6 physician and surgeon may use the "Physician's Guide to
7 Assessing and Counseling Older Drivers," published by the
8 American Medical Association, or another clinically accepted
9 method, as a means to determine the appropriateness of filing a
10 report with the department.

11 (b) These reports shall be for the information of the
12 Department of Motor Vehicles in enforcing the Vehicle Code,
13 and shall be kept confidential and used solely for the purpose of
14 determining the eligibility of any person to operate a motor
15 vehicle on the highways of this state.

16 (c) The department, in cooperation with the Department of
17 Motor Vehicles, shall define disorders characterized by lapses of
18 consciousness based upon existing clinical standards for that
19 definition for purposes of this section and shall include
20 Alzheimer's disease and those related disorders that are severe
21 enough to be likely to impair a person's ability to operate a motor
22 vehicle in the definition. The department, in cooperation with the
23 Department of Motor Vehicles, shall list those circumstances that
24 are not subject to reporting pursuant to subdivision (a) because
25 the patient is unable to ever operate a motor vehicle or is
26 otherwise unlikely to represent a danger that merits reporting.
27 The department shall consult with professional medical
28 organizations whose members have specific expertise in the
29 diagnosis and treatment of those disorders in the development of
30 the definition of what constitutes a disorder characterized by
31 lapses of consciousness as well as definitions of functional
32 severity to guide reporting so that diagnosed cases reported
33 pursuant to this section are only those where there is reason to
34 believe that the patients' conditions are likely to impair their
35 ability to operate a motor vehicle. The department shall complete
36 the definition on or before January 1, 1992.

37 (d) The Department of Motor Vehicles shall, in consultation
38 with the professional medical organizations specified in
39 subdivision (d), develop guidelines designed to enhance the
40 monitoring of patients affected with disorders specified in this

1 section in order to assist with the patients' compliance with
2 restrictions imposed by the Department of Motor Vehicles on the
3 patients' licenses to operate a motor vehicle. The guidelines shall
4 be completed on or before January 1, 1992.

5 (e) A physician and surgeon who reports a patient diagnosed
6 as a case of a disorder characterized by lapses of consciousness
7 pursuant to this section shall not be civilly or criminally liable to
8 any patient for making any report required or authorized by this
9 section.

10 SEC. 2. Section 103902 is added to the Health and Safety
11 Code, to read:

12 103902. (a) Notwithstanding Section 103900, every
13 physician and surgeon shall report to the Department of Motor
14 Vehicles, in writing, both of the following:

15 (1) The name, date of birth, and address of every patient
16 whom the physician and surgeon has diagnosed with Alzheimer's
17 disease or another dementia disorder.

18 (2) The name, date of birth, and address of every patient *at*
19 *least 15 years of age, or 14 years of age if the patient has*
20 *conditional driving privileges*, who suffers from an impairment
21 *or disorder* that significantly compromises the patient's ability to
22 safely operate a motor ~~vehicle and that cannot~~ vehicle. *However,*
23 *a physician is not required to report a patient with a disorder or*
24 *impairment that the physician, relying on substantial medical*
25 *evidence, determines may be controlled or compensated for by*
26 *medication, therapy, surgery, or adaptive devices within a*
27 *clinically reasonable period of time, and if the physician intends*
28 *to administer or oversee the necessary treatment and the*
29 *patient's condition does not pose an imminent risk to public*
30 *safety. The physician is required to report a patient to the*
31 *department pursuant to this section if, at any time in the course*
32 *of treatment, the physician determines that the driver poses an*
33 *imminent risk to public safety, or if, at the conclusion of a*
34 *clinically reasonable period of time, the patient's impairment or*
35 *disorder significantly compromises the patient's ability to safely*
36 *operate a motor vehicle.*

37 (b) A physician and surgeon who makes a report pursuant to
38 this section shall not be civilly or criminally liable.

39 SEC. 3. Section 12803.5 is added to the Vehicle Code, to
40 read:

12803.5. (a) Every driver shall report to the Department of Motor Vehicles any medical condition, as defined pursuant to Section 103900 of the Health and Safety Code, that is likely to cause loss of consciousness or any loss of ability to safely operate a motor vehicle, within 10 days of the driver becoming aware of the condition. The department, in consultation with professional medical organizations, shall determine the temporary conditions not required to be reported under the provisions of this section. All information furnished to the department under this section shall be confidential.

(b) Upon receipt of a report pursuant to subdivision (a) or Section 103900, within a time period to be specified by the department, or as soon as is practicable, the department may initiate an administrative hearing to review the individual's driving privileges. The individual is entitled to present medical or psychological evaluations at the hearing. The department may take adverse action against a person's driving privileges if the evidence presented indicates a likelihood that the person's condition will significantly impair his or her ability to safely operate a motor vehicle. The department may require successful passage of a reexamination test as a condition of continued licensure.

(c) If good cause exists for the continuance of an administrative hearing initiated pursuant to subdivision (b), the department shall not take adverse action against a person's driving privileges unless there is substantial medical evidence that the driver poses an imminent threat to public safety.

(d) A driver has good cause for the continuance of the administrative hearing if the department requires him or her to have a physician complete any medical evaluation form, the driver has made a good faith effort to have the form completed in a timely manner, and the completed form shall have not yet been submitted by a physician to the department. A driver may authorize the department to rely on any physician reports submitted pursuant to this section in lieu of a medical evaluation form required by the department.

(e) The department shall provide discovery to a driver at least 10 days before an administrative hearing initiated under subdivision (b) and the failure to do so is good cause for a continuance of the hearing.

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